

SECTION III—REMARKS

This amendment is submitted in response to the Office Action mailed July 6, 2005. Claims 1, 8, 11, and 14 are amended to more clearly recite features of the claimed invention. Claims 1-19 remain pending in the application. Applicant respectfully requests allowance of all pending claims in view of the following remarks.

Rejections Under 35 U.S.C. § 103

The Examiner rejected all claims in the application under 35 U.S.C. § 103(a) as obvious in view of, and therefore unpatentable over, various combinations of the following references: U.S. Patent No. 6,430,301 to Petrovic (“Petrovic”), U.S. Patent No. 6,512,837 to Ahmed (“Ahmed”) and U.S. Patent No. 6,324,573 to Rhoads *et al.* (“Rhoads”). Specifically, the Examiner rejected claims 1, 2, 4 and 8-17 as unpatentable over Petrovic in view of Ahmed and rejected claims 3, 5-7 and 18-19 as unpatentable over Petrovic in view of Ahmed and further in view of Rhoads.

Applicant respectfully traverses the Examiner’s rejections. To establish a *prima facie* case of obviousness, three criteria must be met: (1) the prior art references must teach or suggest all the claim limitations; (2) some suggestion or motivation to combine the references must be found in the prior art; and (3) there must be a reasonable expectation of success. MPEP § 2143. As explained below, Applicant respectfully submits that the Examiner has not established a *prima facie* case of obviousness.

Claim 1, as amended, recites a system including “a content server connected to a network, said content server capable of delivering content over said network, said content containing a digital watermark” and “at least one monitor station to receive said content over said network and analyze said digital watermark for degradation, wherein degradation of said digital watermark is indicative of degradation of said content.” In paragraph 3 of the Office Action, the Examiner asserts that Petrovic teaches *analyzing the watermark*. However, on page 3, the Examiner states that Petrovic does *not* disclose a combination including “...*analyzing said digital watermark*...” Despite the inconsistency, the Examiner further contends that Ahmed discloses this feature and concludes that it would have been

obvious to one of ordinary skill in the art at the time the invention was made to combine Petrovic and Ahmed to arrive at the claimed invention.

Individually or in combination, Petrovic and Ahmed do not teach or suggest all of the claim limitations recited by Applicant. As a first matter, Petrovic does not teach analyzing a digital watermark. Instead, Petrovic teaches a method for “...analyzing a watermarked *signal*” (col. 3, line 16). Petrovic discloses a method for embedding “common” and “transaction” watermarks into an item of content (col. 3, lines 3-5). A record of the transaction is stored in a transaction database 166. The watermarked content is then distributed to a user. If the user attempts to redistribute the received content, copyright protection may be implemented. Petrovic identifies the content by detecting the common watermark and identifies an unauthorized distributor by detecting the transaction watermark and correlating the detected transaction watermark with a record stored in a transaction database (col. 3, lines 55-58 and col. 3, lines 61-63). Thus, Petrovic analyzes the *signal* to determine the presence of previously inserted watermarks, but does not analyze the watermark.

As a second matter, assuming for the sake of argument that Petrovic does teach analyzing a digital watermark, Applicant respectfully submits that Petrovic neither teaches nor suggests analyzing a digital watermark *for degradation*. Claim 1, as amended, recites, inter alia, “...analyzing said digital watermark for degradation, wherein degradation of said digital watermark is indicative of degradation of said content.” Petrovic is concerned with copyright protection (e.g., identifying a user who has obtained a legitimate copy of the content but distributed it illegally) (col. 2, lines 60-64). Thus, Petrovic is merely directed towards detection of the common and transaction watermarks, as mentioned above. Petrovic does not teach or suggest analyzing the digital watermark for degradation.

As a third matter, Ahmed does not disclose, teach or suggest analyzing the digital watermark, nor does Ahmed disclose, teach or suggest analyzing the digital watermark for degradation. Instead, Ahmed discloses what is essentially a three-step process for detecting and characterizing signal alteration. First, an item of content is analyzed to determine a set of signal metrics, and these signal metrics are encoded in a watermark and embedded in the content (col. 2, lines 23-31). Next, after the content undergoes some

process that may result in alteration, the content is re-analyzed to determine a new set of signal metrics (col. 3, lines 42-45). Finally, the metrics embedded in the watermark are extracted (col. 3, lines 61-62) and compared to the metrics computed during the analysis of the possibly altered content (col. 3, line 63 - col. 4, line 2) to determine whether there has, in fact, been any alteration. Thus, Ahmed *re-analyzes the content* to determine signal degradation, but does not *analyze the watermark*. Instead, Ahmed uses the watermark only as a way to carry the original signal metrics, so that they can later be compared to the metrics computed after possible alteration of the content. Thus, Ahmed does not cure the deficiencies of Petrovic. Neither Ahmed nor Petrovic disclose, teach or suggest “at least one monitor station to receive said content over said network and analyze said digital watermark for degradation, wherein degradation of said digital watermark is indicative of degradation of said content.” Therefore, Applicant respectfully submits that Petrovic and Ahmed, individually or in combination, do not obviate claim 1 and respectfully requests withdrawal of the rejection.

Regarding claims 2-7 if an independent claim is allowable, then any claim depending therefrom is also allowable. *See, e.g.,* MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). As discussed above, claim 1 is in condition for allowance. Applicant respectfully submits that claims 2-4 are therefore allowable by virtue of their dependence on an allowable independent claim, as well as by virtue of the features recited in the claims. Applicant therefore respectfully requests withdrawal of the rejections and allowance of these claims.

Claim 8, as amended, recites a method combination including integrating a digital watermark into content, distributing said content over a network as distributed content, receiving said distributed content in at least one location of said network and “analyzing said digital watermark of said distributed content for degradation, wherein degradation of said digital watermark is indicative of the quality of said distributed content.” By analogy to the discussion above for claim 1, Petrovic and Ahmed, when combined, cannot obviate the claim because the references do not disclose all the elements of a method combination including “analyzing said digital watermark of said distributed content for degradation, wherein degradation of said digital watermark is indicative of the quality of said

distributed content.” Applicant submits that Petrovic and Ahmed therefore cannot obviate claim 8 and respectfully requests withdrawal of the rejection and allowance of the claim.

Regarding claims 9-10 if an independent claim is allowable, then any claim depending therefrom is also allowable. *See, e.g.*, MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). As discussed above, claim 8 is in condition for allowance. Applicant respectfully submits that claims 9-10 are therefore allowable by virtue of their dependence on an allowable independent claim, as well as by virtue of the features recited in the claims. Applicant therefore respectfully requests withdrawal of the rejections and allowance of these claims.

Claim 11 recites a machine-readable medium containing instructions which, when executed, effect the following: integrating a digital watermark into content, distributing said content over a network as distributed content, receiving said distributed content in at least one location of said network and “analyzing said digital watermark of said distributed content for degradation, wherein degradation of said digital watermark is indicative of the quality of said distributed content.” By analogy to the discussion above for claim 1, Petrovic and Ahmed, when combined, cannot obviate the claim because the references do not disclose all the elements of a machine-readable medium combination including instructions for “analyzing said digital watermark of said distributed content for degradation, wherein degradation of said digital watermark is indicative of the quality of said distributed content.” Applicant submits that Petrovic and Ahmed therefore cannot obviate claim 11 and respectfully requests withdrawal of the rejection and allowance of the claim.

Regarding claims 12-13 if an independent claim is allowable, then any claim depending therefrom is also allowable. *See, e.g.*, MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). As discussed above, claim 11 is in condition for allowance. Applicant respectfully submits that claims 12-13 are therefore allowable by virtue of their dependence on an allowable independent claim, as well as by virtue of the features recited in the claims. Applicant therefore respectfully requests withdrawal of the rejections and allowance of these claims.

Claim 14 recites a system including means to serve content that is connected to a network, said means to serve content capable of delivering content over said network, said content containing a digital watermark, and “means for monitoring to receive said content over said network and analyzing said digital watermark for degradation, wherein degradation of said digital watermark is indicative of degradation of said content.” By analogy to the discussion above for claim 1, Petrovic and Ahmed, when combined, cannot obviate the claim because the references do not disclose all the elements of a system combination including “means for monitoring to receive said content over said network and analyzing said digital watermark for degradation, wherein degradation of said digital watermark is indicative of degradation of said content.” Applicant submits that Petrovic and Ahmed therefore cannot obviate claim 14 and respectfully requests withdrawal of the rejection and allowance of the claim.

Regarding claims 15-17 if an independent claim is allowable, then any claim depending therefrom is also allowable. *See, e.g.*, MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). As discussed above, claim 14 is in condition for allowance. Applicant respectfully submits that claims 15-17 are therefore allowable by virtue of their dependence on an allowable independent claim, as well as by virtue of the features recited in the claims. Applicant therefore respectfully requests withdrawal of the rejections and allowance of these claims.

Conclusion

Given the above remarks, Applicant believes all claims pending in the application are in condition for allowance. If the undersigned attorney has overlooked a teaching in any of the cited references that is relevant to allowance of the claims, the Examiner is requested to specifically point out where such teaching may be found. Further, if there are any informalities or questions that can be addressed via telephone, the Examiner is encouraged to contact the undersigned attorney at (206) 292-8600.

Charge Deposit Account

Please charge our Deposit Account No. 02-2666 for any additional fee(s) that may be due in this matter, and please credit the same deposit account for any overpayment.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 10-6-05



Todd M. Becker
Attorney for Applicant(s)
Registration No. 43,487

Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Boulevard, Seventh Floor
Los Angeles CA 90025-1030
Phone: 206-292-8600
Facsimile: 206-292-8606

Enclosures: Postcard
Transmittal Letter, in duplicate